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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/081,940

02/22/2002

Nobuyoshi Yazawa

15311

2191

7590 06/05/2007  
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EXAMINER

CZEKAJ, DAVID J

ART UNIT

PAPER NUMBER

2621

MAIL DATE

DELIVERY MODE

06/05/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/081,940	<b>Applicant(s)</b> YAZAWA ET AL.	
	<b>Examiner</b> Dave Czekaj	<b>Art Unit</b> 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 16 May 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 18-20 and 22-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-20 and 22-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/16/07 has been entered.

### ***Response to Arguments***

Applicant's arguments with respect to claims 18-20 and 22-35 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 18-20 and 22-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi (5776049) in view of Oakley et al. (5413107), (hereinafter referred to as "Oakley").

Regarding claim 18, Takahashi discloses an apparatus that relates to a stereo endoscope (Takahashi: column 1, lines 9-11). This apparatus comprises "an optical system including at least one optical lens for obtaining an optical image of a subject"

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(Takahashi: figure 2a, wherein the optical system is the objective optical system), "an optical system support member" (Takahashi: figure 2A, wherein the optical system support member is the optical system driving means), "an imaging element for capturing an optical image" (Takahashi: figure 2A, wherein the imaging element is the CCD which captures the image of the subject), "an imaging element support member" (Takahashi: figure 2A, wherein the support member is the CCD driving means), and "a tubular member comprising a first and second end, defining an innerspace extending between the first and second end, the optical system being hermetically joined to the first end the imaging element being joined to the second end" (Takahashi: figure 10a, wherein the tubular member is shown). Takahashi further discloses "relative movements of the optical system and the imaging support member in a direction along an optical axis of the optical system and in a direction perpendicular to the optical axis of the optical system" (Takahashi: figure 2A, wherein the movements are indicated by the left, right, up, and down arrows). However, this apparatus lacks the bellows portion and adjustment mechanism as claimed. Oakley teaches that prior art endoscope systems have a limited degree of linear movement (Oakley: column 4, lines 33-35). To help alleviate this problem, Oakley discloses an apparatus comprising "a bellows portion between the first and second ends of the tube adapted for movement" (Oakley: figure 13; column 10, lines 65-67), and "an adjustment mechanism for adjusting relative positions of the support members in three dimensions, the dimensions being an a direction orthogonal to the optical axis, along the optical axis and a tilt direction to the optical axis" (Oakley: column 7, lines 25-30; column 8, lines 65-67). Therefore, it would

have been obvious to one having ordinary skill in the art at the time the invention was made to take the apparatus disclosed by Takahashi and add the bellows and adjustment mechanisms taught by Oakley in order to obtain an apparatus that can provide a wide variety of different movements.

Regarding claim 19, Takahashi discloses "an optical system fixing portion for fixing the optical system and frame member defining an inner space in which the optical system fixing portion is located, the frame member being joined to the tubular member" (Takahashi: figure 10A, wherein the optical system is fixed or joined to the tubular member).

Regarding claim 20, Takahashi discloses "an imaging element fixing portion for fixing the imaging element and frame member defining an inner space in which the fixing portion is located" (Takahashi: figures 4-5).

Regarding claims 22-23 and 25-26, Takahashi discloses "an adjusting mechanism for moving the optical system and imaging system relative to each other" (Takahashi: figures 2A, 4, 5, column 7, lines 17-29, wherein the adjusting mechanism is the driving means).

Regarding claim 24, Takahashi in view of Oakley disclose "an adjusting frame member" (Oakley: figure 13, wherein the adjusting frame member is the bellows portion) such that "the optical system and imaging system move relative to each other" (Takahashi: figures 2A, 4, 5, column 7, lines 17-29).

Regarding claim 27, note the examiners rejection for claims 19 and 25.

Regarding claim 28, note the examiners rejection for claims 20 and 26.

2. Claims 29-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi (5776049) in view of Oakley et al. (5413107), (hereinafter referred to as "Oakley") in further view of MacKinnon et al. (6110106), (hereinafter referred to as "MacKinnon").

Regarding claims 29 and 34, note the examiners rejection for claim 18, and in addition, claims 29 and 34 differ from claim 18 in that claims 29 and 34 further require a filter unit. MacKinnon teaches that prior art imaging systems are bulky systems and have a limited dynamic range (MacKinnon: column 2, lines 8-15). To help alleviate this problem MacKinnon discloses a filter unit for selecting one of a plurality of observation states" (MacKinnon: figures 4A and 4C, wherein the filter unit is the filter 18). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to implement the filter unit in order to more accurately adjust the amount of light within the apparatus.

Regarding claims 30-32, although not disclosed, it would have been obvious for the observation states to include normal light, enlarged, and fluorescent light (Official Notice). Doing so would have been obvious in order to be able to use the apparatus under a variety of conditions.

Regarding claim 33, MacKinnon discloses "the filter unit defines a plurality of openings, each of the openings comprising a lens" (MacKinnon: column 20, lines 26-28).

Regarding claim 35, note the examiners rejection for claim 18, and in addition, MacKinnon discloses "the filter unit defines a plurality of openings, the endoscope

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apparatus further comprises a filter unit moving mechanism to move the filter unit"  
(MacKinnon: column 20, lines 14-20, wherein the moving mechanism is the knobs).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dave Czekaj whose telephone number is (571) 272-7327. The examiner can normally be reached on Mon-Thurs and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on (571) 272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DJC

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TC 2600